



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.676 of 2023

Vaibhav Vijaysingh Maliye

vs.

*State of Maharashtra, through P.S.O., Police Station Shegaon City, Khamgaon,
District Buldhana and another*

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. D.V. Chauhan with Mr. S.P. Bodalkar, Advocates for the Applicant.
Mr. V.A. Thakre, A.P.P. for Non-Applicant No.1/State.
Mr. Abhay Dhage h/f Mr. V.B. Bhise, Advocate for Non-Applicant No.2.*

CORAM : M.W. CHANDWANI, J.
DATE : 13th OCTOBER, 2023.

By the present application, the applicant seeks bail in connection with Crime No.136/2023, registered with Police Station Shegaon City, Buldhana, for the offences punishable under Sections 376, 354-C, 354D, 376(2)(k) and 506 of the Indian Penal Code.

02] Heard the learned Counsel for the applicant as well as the learned A.P.P. for the State assisted by the learned Counsel appearing for non-applicant No.2/victim.

03] Having gone through the charge-sheet, it transpires that the victim is a married woman and was working as an employee in the shop of the applicant named and styled as Sanvi Ladies Garments at Talhara. The husband of the victim was also serving as labour on the tractor of the applicant. On 01/03/2023, the applicant had been to Shegaon and called the victim at Shegaon on the pretext of purchasing goods/material for his shop. Therefore, the victim by bus had been to Shegaon. The prosecution alleges that the applicant took the victim to one Shradha Lodge at Shegaon and he committed

forcible sexual intercourse with her forcibly. It is also alleged that he took nude photographs of the victim by his mobile. Therefore, on 05/03/2023, on the complaint of the victim, aforesaid offence came to be registered against the applicant.

04] It is contended on behalf of the applicant that the applicant has not committed any forcible intercourse with the victim. According to him, the allegation of snapping nude photographs of the victim is also not correct. The mobile seized by the police does not contain the nude photographs of the victim. He submits that it is the case of consensual sexual intercourse and it has been given a colour of forcible intercourse. According to him, she all the way, not only came to Shegaon, but also accompanied with the applicant in Shradha Lodge, which goes to show that she was a consenting party. It is submitted that the applicant is behind the bar since last six months. The applicant is ready to abide all the conditions to be imposed in the order granting bail.

05] *Per contra*, the learned Additional Public Prosecutor for the State assisted by the learned Counsel appearing for the victim, vehemently submits that the material on record goes to show that the alleged act of sexual intercourse has been done forcibly. According to him, the victim was called by the applicant on the pretext of purchasing goods/material for his shop viz. Sanvi Ladies Garments. Thereafter, she was taken to Shradha Lodge on the pretext that the applicant had to meet someone. He submits that Aadhar Card of the wife of the applicant has been shown to the Lodge owner for taking a room on hire, which goes to show that the victim is not a consenting party. According to him, the applicant is a businessman, whereas the victim is a poor woman, who is an ex-employee of the applicant. If the

applicant is released on bail, certainly he will pressurize the witnesses and influence them. Therefore, he objected the bail application.

06] Perusal of the charge-sheet transpires that the victim had been to Shegaon. She accompanied with the applicant at Shradha Lodge. Whether the sexual intercourse was done forcibly or on her will, is a matter of trial. It will not be proper to comment on this at the stage of deciding the bail application. The applicant is behind the bars since last more than six months. Charge-sheet has already been filed. The evidence is already completed. So far as the apprehension of the learned A.P.P. that the applicant may pressurize the victim and influence the witnesses in connection with the crime is concerned, I think the applicant can be put to on stringent conditions.

07] In view of the above, I am of the view that a case is made out for exercising discretion in favour of the applicant. Hence, the following order :

ORDER

- I. Applicant - Vaibhav s/o Vijaysingh Maliye shall be released on bail in connection with Crime No.136/2023, registered with Police Station Shegaon City, District Buldhana, on his furnishing a P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one solvent surety in the like amount, before the trial Court.
- II. The applicant shall not enter in the village Telhara, Tahsil Talhara, District Akola, till conclusion of the trial.

- III. The applicant shall attend the trial Court on each and every date.
- IV. The applicant shall not in any manner contact the victim and shall not threaten her or any other witness connected with this case or tamper with the prosecution evidence.
- V. The application is allowed and disposed of accordingly.

JUDGE

**sandesh*